IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.12844 of 2024 and
W.M.P.Nos.14014 & 14020 of 2024

Lakshmana Kumar,
Sole Proprietor of Anbu Medical Stores,
No.2, Mettan Kadu Thottam,
KNP Colony P.O., Serkandu VI Street,
Dharapuram Road, Pudhur Pirivu,
Tiruppur-641 608. ... Petitioner

-vs-

1. The Assistant Commissioner (ST),
Bazaar Assessment Circle,
Tiruppur.

2.The Branch Manager,
Karur Vysya Bank Limited,
Tiruppur Main Branch,
113, 315, Kumaran Road,
Tiruppur-641 601. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records leading to the issuance of assessment order bearing Reference

GSTIN:33AGNPL5976B1Z9/2017-2018 dated 07.11.2023 passed by the 1st respondent and quash the same, and further direct the 1st respondent to lift the bank attachment made by directing the 2nd respondent.

For Petitioner : Ms.S.P.Sri Harini

For 1st Respondent : Mr.C.Harsha Raj, AGP (T)

ORDER

An assessment order dated 07.11.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. By asserting that the show cause notice and personal hearing notices were uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner became aware of these proceedings only upon the petitioner being prevented from operating the bank account by the 2nd respondent bank.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the 1st respondent. He submits that the impugned order was preceded by a notice in Form ASMT 10, intimation dated 15.09.2023 and show cause notice dated 27.09.2023.

4. On perusal of the impugned order, it appears that the tax proposal pertains to mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. The impugned order records that the tax proposal was being confirmed because the petitioner did not reply to the show cause notice. In the facts and circumstances outlined above, the interest of justice warrants that the petitioner be provided an opportunity albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 07.11.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand. Such remittance shall be made within a period of two weeks from the date of receipt of a copy of

this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. In view of the assessment order being set aside, the attachment, if any, of the bank account of the petitioner in the 2nd respondent bank shall stand raised.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

07.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

kj

SENTHILKUMAR RAMAMOORTHY,J

kj

To

The Assistant Commissioner (ST),
Bazaar Assessment Circle,
Tiruppur.

Writ Petition No.12844 of 2024 and
W.M.P.Nos.14014 & 14020 of 2024

07.06.2024